

Stephen Bough

From: Anthony Phillips <anthonyluxadvisors@gmail.com>
Sent: Thursday, May 9, 2024 5:06 AM
To: Stephen Bough; mike_ketchmclaw.com; eglass@cooley.com
Subject: Fairness Hearing
Attachments: image.png; Walsh-1.jpg; image.png

CAUTION - EXTERNAL:

Greetings, Fellow Potential Class Participants and Counsel,

As a potential class participant who sold a residence in the past five years, I have concerns regarding the settlement terms. Unfortunately, I cannot attend the hearings in Kansas City. Thus, I ask other potential class members attending to discuss the following topics on my behalf.

Benefit To Class

Industry predictions estimated \$100 billion in damages. Nevertheless, the settlements are projected to gain a fraction of these damages. Initially, I envisioned a significant payout to afford a Bentley, but we may only receive funds for a Burrito.

Suppose legal fees and costs consume 40% of a \$1.2 billion combined settlement, which leaves \$720 million for distribution among up to 60 million class members. This averages about \$12 per person—not even enough to buy a \$14.63 Taco Bell Grilled Cheese Burrito Deluxe Cravings Box via DoorDash.

To afford a Supreme Variety Taco Party Pack at \$40.25, I must participate in three more class action lawsuits.

Also, how can we defend the enrichment request by our counsel?

A Firm	B Billable Hours	C Total	D Expenses Experts and Cons
Dameron	9,133	\$ 8,400,175.00	\$ 91,000.00
Ketchmark	22,306	\$ 22,709,710.00	\$ 41,000.00
Boulware Law LLC	14,249	\$ 12,929,975.00	
Berman	19,525	\$ 11,771,535.00	\$ 4,900.00
Cohen Milstein Sellers & Toll PLLC	14,844	\$ 36,314,847.00	
Susman Godfrey L.L.P.	11,750	\$ 9,503,165.00	
Handley Farah & Anderson PLLC	2,318	\$ 1,596,737.00	
Teske Law	1,224	\$ 1,016,590.00	
Justice Catalyst Law	662	\$ 478,079.00	
Wright Marsh & Levy	599	\$ 389,740.00	
Gustafson Gluek PLLC	121	\$ 94,525.00	
Total	96,731	\$ 105,205,078.00	\$ 10,000.00

Plausible Harm To Members Of The Department Of Defense | VA Loans

Everyone, especially me, is grateful for a free lunch, but not to the detriment of the combined 18,000,000 DOD employees and retired Veterans.

Stephen Brobeck, a senior fellow at the Consumer Federation of America who is frequently cited in complaints, released an opinion piece 1197 days ago entitled "[CFA Predicts Impact on Consumers and Real Estate Brokers If Courts Require Uncoupled Commissions.](#)"

Brobeck's first prediction was: "*Mortgage lenders and the GSEs (Fannie Mae and Freddie Mac) will quickly accept the desirability of buyer broker commissions being financed and then work with brokers to facilitate this transition. These lenders will understand that to afford a new home, many buyers will need these fees to be included in their mortgage. Lenders will also know that these fees are currently largely or wholly included in the sale price, so the size of loans will not change appreciably.*"

There is no evidence that Brobeck attempted to receive approval from the VA, and now more clarity is needed.

My clinical side explains why a compensated, so-called "Consumer Advocate" failed to obtain official positions from programs like the VA pre-verdict.

1. The narrative that Sellers are owed billions fails if the VA agrees that buyers contribute to commissions.
2. If the VA declines to include commissions, it is reasonable that the pro-consumer benefit outweighs the detriments.

In a press release published on October 3, 2023, Brobeck deviates from our narrative, claiming in part, "[Realtor sales agents receiving a median net annual income of only \\$25,000.](#)"

Based on these two opinions, my **understanding** of Brobeck's position includes:

- Brobeck advocates for the status quo, stating, "*to afford a new home, many buyers will need these fees to be included in their mortgage.*"

- Brobeck acknowledges that buyers contribute to commissions, claiming, "*Lenders will also know that these fees are currently largely or wholly included in the sale price.*"
- Moreover, Brobeck violates the narrative of damages to Sellers when claiming "*the size of loans will not change appreciably.*"

The only conceivable way to maintain loan amounts under the current commission structure is if buyers lower their offer prices to counterbalance the commission fees. We've labored tirelessly to instill in the public that the definition of commissions is percentages. For instance, Australia levies a 3% commission for sales via auction, while Missouri agents demand approximately 5%. Therefore, based on this logic, Missouri sellers should be entitled to a "refund."

Troublingly, Stephen Brobeck shifted from percentages to actual dollars when discussing agents' \$25,000 annual income, thereby necessitating a retrial to evaluate the true monetary costs of selling homes at average values in each foreign market. For example, the average home value in Australia is estimated at around \$1,173,312 (AU). Considering a 3% commission and up to \$10,000 in non-refundable marketing fees paid upfront, the total cost of sale can soar to \$45,199 (AU).

In contrast, Zillow reports that the average home value in Joplin, Missouri, was \$187,287 in 2019. Here, a 6% commission totals only \$11,237, far less than the fees charged in Australia, even after accounting for currency exchange rates. Glenn Kelman is an outspoken critic of the 6% commission. If he attends the discussion, could someone please inquire why Redfin opts out of markets like Joplin?

In truth, the average commission fees in Missouri are lower than those in the countries our experts selectively chose, even after adjusting for currency values.

Markets	Average Home Value (USD)	Average Commission Rate 2022	Average Seller's Commission (USD)
Australia	\$ 777,777	3.0%	\$ 23,333
Hong Kong	\$ 1,254,442	2.5%	\$ 31,361
Ireland	\$ 310,000	2.8%	\$ 8,780
New Zealand	\$ 872,000	2.5%	\$ 21,800
Singapore	\$ 915,601	3.0%	\$ 27,468
United Kingdom	\$ 322,423	2.0%	\$ 6,449
<u>Average</u>	<u>\$ 742,041</u>	<u>3%</u>	<u>\$ 22,261</u>
<u>Joplin, Missouri</u>	<u>\$ 187,287</u>	<u>6.0%</u>	<u>\$ 11,237</u>

Taxpayers United | Plaintiff's Attorney Matthew Dameron | Judge Stephen Bough | Andre Bough

In 2019, the spouse of Judge Bough, Andrea Bough, pursued a city council position. [Based on campaign finance records](#), Taxpayers Unlimited, a PAC believed to be associated with Ketchmark, nor Plaintiff's Attorney Matthew Dameron lacked interest in Bough's campaign; however, upon Judge Bough's assignment to Sitzer, Taxpayers Unlimited and Plaintiff's Attorney Matthew Dameron provided a combined seven campaign contributions to Andrea Bough.

Contributions are itemized according to the following report dates:

1. 1/7/2020 (Non-election year)
2. 1/11/2021 (Non-election year)
3. 1/14/2022 (Non-election year)
4. 1/9/2023 (Re-elected on June 20, 2023)
5. The reporting on 10/6/2023 includes an expense/payment by Councilperson Bough of \$25,000 to the UMKC Law Foundation, where Judge Bough is believed to serve on the Board.

If the journalists and the various U.S. Attorney's Offices included as blind carbon copies on this email decide to take action, how should we respond to counter these allegations?

Copy Cat Case-Canada

Attempting to coerce settlements, especially by including both civil and criminal claims, is unconscionable.

The case in Canada cites criminal statutes, possibly leading CA Agents to believe they will go from an open house to the big house. A shocking level of coercion to force settlements.

Luckily, the Plaintiffs' participants published a mini-meltdown, questioning the validity of their case.

The Canadian Minister of Justice is engaged.



Michael Walsh, Managing Director at EBI C... • 2nd
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Seems as though the Department of Justice in the United States may have opened a can of worms. The DOJ is questioning the calculation of damages in the commission class actions. This from the DOJ's statement of interest in Nosalek v MLS PIN:

"The buyer-broker commission has a very real cost to homebuyers, who ultimately pay through higher purchase prices."

OK, but buyers are not the one's complaining. Home sellers are complaining. They have to pay for the buyer's agent, and they don't like it. Yet according to the DOJ, this actually increases home prices. Sellers are getting higher prices for their homes!

[John Syme, Paul Bates, Garth Myers, Douglas R. Miller, Steve Broback, Robert Hahn, Russ Cofano](#)

◆ Takeaways

◆ How have home sellers been harmed?

◆ What is >

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From now on, discussing these issues off-record would be prudent.

Summary

For the record, my questions are purely rhetorical. I could care less about NAR; it's the parasitic proptech companies and the mercenary tactics of contingency-based, template-driven legal mills that unjustly depict real estate agents as the villains, all while operating in an egregiously worse sector.

The terms 'fairness' and 'Sitzer' should never be uttered simultaneously.

I am devising a comprehensive strategy to present to the FTC and DOJ leadership aimed at elevating educational standards for real estate professionals. This initiative is focused on enhancing the professional demeanor of agents in their interactions with consumers, thereby boosting the perceived value of agents.

The US ATTY, DOJ, and FTC will determine fairness.

Anthony Phillips

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